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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92048989
Party	Plaintiff Top Tobacco, LP
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Date	07/28/2009
Attachments	Joint Motion.pdf ( 4 pages )(13946 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of  
Registration Nos. 2,950,896 and 3,328,623

TOP TOBACCO, LP,	)	
	)	
Petitioner,	)	
v.	)	Consolidated Cancellation No. 92048989
	)	
VAN NELLE TABAK NEDERLAND BV,	)	
	)	
Respondent.	)	

**JOINT MOTION FOR EXTENSION OF TIME FOR PETITIONER TO FILE A  
RESPONSE TO RESPONDENT'S MOTION TO COMPEL**

Petitioner, Top Tobacco, LP (“Top”), and Respondent, Van Nelle Tabak Nederland BV (“Van Nelle”), jointly move for an additional extension of sixty (60) days, until October 13, 2009, of the time by which Top must file its brief in opposition to Van Nelle’s Motion to Compel. In support thereof, the parties state as follows:

1. On January 2, 2009, the Board suspended these proceedings pending disposition of Top’s Motion to Compel discovery.

2. On January 16, 2009, Van Nelle filed a Motion to Compel discovery. In response, on January 27, 2009, Top filed a Motion to Strike Van Nelle’s Motion to Compel because the proceedings were suspended for all issues not germane to its earlier filed Motion to Compel and, it submitted, Van Nelle’s Motion to Compel was not germane.

3. On June 25, 2009, the Board issued an Order denying Top’s Motion to Strike and directing Top to respond to Van Nelle’s Motion to Compel. *See* June 25, 2009 Order. As the parties were engaged in settlement discussions, on June 30, 2009, Top filed a Consented Motion

for Extension of Time For Petitioner to File a Response to Respondent's Motion to Compel, thereby giving Top until August 14, 2009 to file its Response, which the Board granted on July 2, 2009. *See* July 2, 2009 Order.

4. Since the Board issued its July 2, 2009 Order, the parties have made substantial progress toward reaching a settlement that will resolve all matters at issue in this case, as well as other matters currently in dispute between the parties. However, the parties require additional time to continue these settlement discussions, and to finalize and execute a settlement agreement if settlement is reached.

5. The parties believe that settlement in this matter will be promoted by extending the time for Top to respond to Van Nelle's Motion to Compel, as it will preserve resources and permit them to continue to focus their attention on settling this case. Accordingly, the parties seek an additional extension of sixty (60) days for Top to respond to Van Nelle's Motion to Compel, thereby making Top's response due on October 13, 2009. This extension is sought not for purposes of delay but to allow the parties the opportunity to resolve all matters at issue in this case and conserve the Board's resources in the event the parties are able to settle these proceedings before October 13, 2009.

6. Counsel for Top and Van Nelle conferred regarding this matter on July 28, 2009 and agreed to this Joint Motion.

WHEREFORE, the parties respectfully request that this Board enter an order granting Top an extension of time until October 13, 2009 to respond to Van Nelle's Motion to Compel.

July 28, 2009

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Respectfully submitted,

/Antony J. McShane/  
One of the Attorneys for Petitioner,  
Top Tobacco, L.P.

July 28, 2009

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Respectfully submitted,

/Brewster Taylor/  
One of the Attorneys for Respondent,  
Van Nelle Tabak Nederland BV

**CERTIFICATE OF SERVICE**

I, Lara V. Klapper, an attorney, state that I caused a copy of the foregoing, JOINT MOTION FOR EXTENSION OF TIME FOR PETITIONER TO FILE A RESPONSE TO RESPONDENT'S MOTION TO COMPEL to be served upon:

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via U.S. Mail on this July 28, 2009.

/Lara V. Klapper/  
Lara V. Klapper